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Our File No. 54322.0007

March 24, 2011

Via e-mail board.secretary@bpu.state.nj.us
& First Class Mail

New Jersey Board of Public Utilities
Two Gateway Center, Suite 801
Newark, NJ 07102

Attn: Kristi Izzo, Board Secretary

Re: LCAPP Law

In the Matter of the Long-Term Capacity Agreement PILOT Program
ENERGY – Order Initiating Proceeding and Approving Agent
BPU Docket No. E011010026

Dear Secretary Izzo:

Please accept this letter on behalf of the Township of West Deptford (the “Township”) in regard to matters pending before the BPU in regard to the Long Term Capacity Agreement Pilot Program, and specifically with respect to the application of West Deptford Energy Associates (“WDE”).

The Township and the County of Gloucester have been engaged in a public process for over 5 years with WDE by which WDE has entered into an Agreement to Purchase approximately 302 acres of land for \$14,000,000. The area is designated as a Redevelopment Zone and **the Township is to be the recipient of \$107,245,355 in PILOT Payments over a 30 year period**. Indeed, the Township’s efforts to productively develop this particular land extend back many years prior to the negotiations with WDE with other potential developers that were unsuccessful. The land has sat fallow all this time with minimal tax receipts to the Township.

WDE, prior to and since the execution of the Purchase Agreement has steadily pursued all of its permits, including an extensive list of requirements with the New Jersey DEP and the Federal Aviation Authority (the location is directly across the Delaware River from the Philadelphia International Airport). The Township has been advised that the full array of non-BPU permits and approvals have been obtained and that upon obtaining the BPU authorizations the project is substantially “shovel-ready.” It is also the case that the project would create a large number of construction jobs as well as permanent jobs upon completion. This is, of course, in addition to the ancillary benefits to the local economy of the town, the county and the region and the benefits to all of South Jersey from the development of an additional energy source. (You are undoubtedly also aware of the substantial loss of local jobs and tax revenues as a result of recent closings of refineries located in the Township.)

The Township understands that the LCAPP Agent acting on behalf of the BPU disqualified WDE from the generator review process due to disagreements over the form of the SOCA contract to be utilized. Given that the Agent’s Report was issued only this past Monday or Tuesday and that the Comment Period extends only until today (3 days would appear to be an extraordinarily short comment period under even the simplest bid process let alone one of such complexity, scope and cost), the Township is able to offer only summary comments. Notwithstanding, the following points appear relevant:

1. WDE was determined by the Agent to be a Prequalified Eligible Generator.
2. The merits of the WDE proposal (other than the Form of Contract issue) were apparently not considered or evaluated at all (and thus not compared to the other applicants’ projects).
3. There is disagreement on whether the Agent had the discretion to refuse to evaluate and present that full evaluation to the BPU for its consideration.
4. In recommending three projects for approval, the Agent failed to include any in South Jersey; in fact, the three selected are all in relatively close proximity to each other, raising issues for that region that don’t appear to have been considered.
5. The approval of a project is for the BPU not the Agent; by pre-qualifying WDE and then failing to evaluate all the issues required under the LCAPP Law and presenting all the issues to the BPU, the Agent has usurped the decision and denied WDE’s ability to have the project reviewed and determined by the BPU.
6. The Township understands that time of completion was to be an important factor in the review process. It is also of the belief that only WDE’s project is “shovel-ready” and therefore likely to be completed and on-line within the time frames anticipated by the Law.

7. By failing to follow the prescribed process, the review ignored the benefits to the region and community.

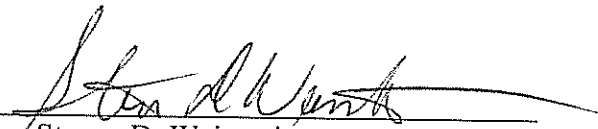
The Township understands that WDE will be submitting its own comments and we would expect them to cover many of the technical aspects which the Township, on such short notice, is unable to address. The Township is of the belief that WDE has spent substantial amounts (in excess of \$2 million) in developing its proposal and pursuing approvals and design, etc. The Township has also invested heavily in working on this Project and has done so in order to not just develop property but to do so in a way that will provide extraordinary benefits to the Township's residents. The location of the property is particularly well-suited to the proposed project and the financial benefits to the residents are of immense importance – over \$107 million dollars in revenue; construction jobs and permanent jobs to a town hit hard by the current economic crisis.

While there are certainly issues of great complexity to be considered beyond the local interests outlined in this letter, the process by which the Agent has justified refusing to even evaluate the merits, the extremely short Comment Period, and the haste with which the process appears to be moving all suggest that critical mistakes are about to be made. On behalf of the Township, we respectfully ask that at a minimum more time be provided for consideration and that the recommendations of the Agent be rejected due to its failure to consider the criteria by which it was to proceed.

Respectfully,

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Special Development Counsel for
Township of West Deptford

By:


Steven D. Weinstein

SDW:bf

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